

**COMMISSION FOR MENTAL HEALTH,  
DEVELOPMENTAL DISABILITIES AND  
SUBSTANCE ABUSE SERVICES**

**Commission Minutes**

**Clarion Hotel  
320 Hillsborough Street  
Raleigh, NC 27603**

**Thursday, November 18, 2010**

**Attending:**

John R. Corne, Dr. Diana Antonacci, Dr. Richard Brunstetter, Jennifer Brobst, Dr. John S. Carbone, Dr. Thomas Gettelman, Dr. Ranota T. Hall, Dr. John J. Haggerty, Matthew Harbin, A. Joseph Kaiser, Emily Moore, Phillip A. Mooring, Dr. Greg Olley, Elizabeth Ramos, Jerry Ratley, Don Trobaugh, David R. Turpin, John Owen, Dr. James W. Finch

**Excused Members:**

Cindy Ehlers, Nancy Moore, Beverly Morrow, Pamela Poteat, Larry Pittman, Debra Dihoff

**Other Absences:**

Norman Carter, Carl Higginbotham

**Division Staff:**

Steven Jordan, Jim Jarrard, W. Denise Baker, Marta T. Hester, Andrea Borden, J. Luckey Welsh, Amanda J. Reeder, Lynn Jones

**Others:**

Elizabeth Dyer, Laura White, Annaliese Dolph, Tracy Hayes, Marc Lodge, Peggy Balak, Bob Hedrick, Steve Metcalf

**Handouts:**

1. Request for Waivers of Rules 10A NCAC 27E .0107 & 10A NCAC 27G .3806
2. Executive Order #70 – Rules Modification and Improvement Program
3. Statewide Disposition of Patients that were on Delay for a State Hospital During the Period of January – June 2010
4. Average Waiting Time for a State Hospital Bed for Persons in Emergency Departments by Region and LME
5. Status of Rules Currently in Process and Newly Proposed Rules

**Call to Order:**

John R. Corne, Chairman, NC Commission for Mental Health, Developmental Disabilities and Substance Abuse Services, called the meeting to order at 9:45 a.m. He asked for a moment of reflection and welcomed everyone to the meeting. Chairman Corne reviewed the ethics reminder and the ethics training requirements; the training requirement will be available electronically via the State Ethics Commission's website after January 1, 2011.

### **Approval of Minutes**

*Upon motion, second and unanimous vote, the Commission approved the minutes of the August 26, 2010 meeting.*

### **Division Director's Report: Division of State Operated Healthcare Facilities**

J. Luckey Welsh, Director, NC Division of State Operated Healthcare Facilities (DSOHF), provided an overview of the state facilities and addressed the issues below.

Mr. Welsh stated that the legislature appropriated funding to increase education and training within the facilities. While there is a tremendous amount of training and education that occurs in the facilities, DSOHF wants to increase the education for direct care workers, supervisors, and managers. Mr. Welsh stated that DSOHF is in discussions with the North Carolina Area Health Education Centers (AHEC) about conducting special training for direct care workers and health care technicians. He stated that they have been talking with several community colleges in the area about this as well.

Mr. Welsh reported that the legislature made the decision to abandon the Office of Education as part of the Department of Health and Human Services (DHHS) and move that the Department of Public Instruction (DPI). However, Mr. Welsh stated that legislation did not address the fact that the hospitals have eight schools and 150 teachers that provide education to the individuals in state facilities; therefore, they have added Kathy Roades to the staff to ensure that the educational needs of DSOHF residents are met.

Mr. Welsh provided the following reports on state facilities:

- **Alcohol and Drug Abuse Treatment Centers (ADATCs)**  
Walter B. Jones will be undergoing Joint Commission survey for accreditation during the second week in December. The R.J. Blackley Center will be moving into its new building in January 2011.
- **Developmental Centers**  
The Murdoch Center has opened a new program called Therapeutic Respite Addressing Crises for Kids (TRACK). The program is for children between the ages of 5 – 17 who are in crisis. This was opened with current funds.
- **Neuro-Medical Centers**  
The O'Berry Center is being converted from an Intermediate Care Facility for the Mentally Retarded (ICF/MR) to a Skilled Nursing Facility (SNF). The Longleaf Neuro-Medical Center has implemented "Main Street," using grant money.
- **Schools**  
The Whitaker School was converted to a Psychiatric Residential Treatment Facility (PRTF); it recently underwent Joint Commission survey and is now accredited for PRTF services.

- **Hospitals**

DSOHF has broken ground for the new Cherry Hospital in Goldsboro, which is scheduled to open January 2013. Broughton Hospital will be breaking ground this spring; that will be a two year project. Once construction is completed, the state will have three new state of the art psychiatric hospitals. Mr. Welsh also invited the Commission to visit Central Regional Hospital.

Mr. Welsh mentioned a newspaper article regarding an incident of physical abuse that occurred at J. Iverson Riddle Developmental Center; the individual involved has now been terminated. Mr. Welsh stated that DSOHF takes physical abuse very seriously and responds to it very swiftly. There have been four instances of physical abuse within the last quarter throughout the 15 facilities.

Mr. Welsh also commented on another article concerning Representative Verla Insko's visit to Dorothea Dix Hospital. Mr. Welsh stated that an employee (physician) of Dorothea Dix Hospital invited Representative Insko to visit; however, he failed to follow proper procedure and did not inform the administration of the visit. The article stated that Representative Insko was "booted" out of the hospital and that is not the truth. She was permitted to visit on a limited basis. The following day five representatives, including Rep. Insko, toured Dorothea Dix. This tour request was handled consistent with policy and was organized for the safety, security, privacy, and dignity of those being served.

Mr. Welsh addressed delays in care occurring in emergency room departments in community hospitals in North Carolina. Mr. Welsh stated that this issue has been discussed with the Commission at a past meeting and Debra Dihoff, Commission member, asked if DSOHF could present some statistics on this issue. Mr. Welsh stated that the fact remains they do not have enough beds; therefore, there are some delays in admissions to facilities.

Laura White, Team Leader, Hospitals, DSOHF, addressed the transition of patients from Dorothea Dix Hospital, cost reduction measures at Dix, and the delay of admissions issue. Ms. White stated that there is a large budget deficit related to the facilities and there was no funding appropriated for Dix. Secretary Lanier Cansler has asked DSOHF to look at how patients can be transferred from Dix to existing hospitals and thereby realize some savings in the budget. Ms. White stated that DSOHF is in the process of transferring the majority of the patients who are currently served at Dix to either Central Regional Hospital in Butner or Cherry Hospital in Goldsboro. When this process is completed there will be a few programs remaining on the Dix Campus, such as a 30 bed forensic minimum security unit, a child out-patient unit that will be run in collaboration with University of North Carolina, Department of Psychiatry, and an outpatient clinical research program that is also run in collaboration with UNC Department of Psychiatry. Ms. White stated that admissions to Dorothea Dix would be discontinued as of December 3, 2010. She also elaborated on the status of employment opportunities for the Dix Hospital staff and reviewed a spreadsheet on the average waiting time for a state hospital bed for persons in emergency departments by region and LME (January – June). Ms. White stated that about half of the people who are referred and put on delay are admitted to the state hospitals. Another significant percentage of people are admitted to community hospitals.

**Ms. White responded to the following questions and comments from the Commission:**

- Dr. James Finch, Commission member, asked how many people who sought admission were placed on delay status. Ms. White stated that DSOHF is not tracking the number of people who are entering emergency departments; DSOHF begins tracking when a patient enters the state hospital. Dr. Finch asked what percentages of those individuals who need admission are admitted to the hospital versus being placed on delay status. Ms. White responded that she does not have that exact number; the spreadsheet tracks people who are already on delay. Ms. White also stated it was true that all of DSOHF hospitals are on delay, but it doesn't mean that every unit is on delay.
- Matthew Harbin, Commission member, asked why there was a discrepancy between the number of referrals by region and what would account for Wake County having 122 referrals versus Mecklenburg having 23 referrals. Steven Jordan, Director, NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services, responded that Mecklenburg has some crises beds that are used to divert individuals from state facilities. Wake held its ribbon cutting in November on the new crisis facilities that will be opening after the first of the year. Dr. Tom Gettelman, Commission member, added that another factor to consider is whether patients who are in observation status are included in the data.
- Don Trobaugh, Commission member, asked if the state has issued instructions or guidance on how individuals should be maintained in the emergency room. Mr. Welsh responded that every medical center with an emergency department is responsible for providing quality and safe care. He also commented on federal Emergency Medical Treatment and Labor Act (EMTALA) requirements that most hospitals provide an examination and needed stabilizing treatment without consideration of insurance coverage or inability to pay when patients present at emergency rooms seeking emergency medical care.
- Dr. Ranota Hall, Commission member, asked what amount of training is being provided to the local emergency department helping them understand the array of services and the options offered. Mr. Jordan stated that at Sandhills, Victoria Whitt has developed a training curriculum to work with the local emergency departments.
- David Turpin, Commission member, asked if the numbers in the spreadsheet included substance abuse patients and Ms. White responded that it included substance abuse patients if they have been referred to a state hospital.

**Division Director's Report: Division of Mental Health, Developmental Disabilities and Substance Abuse Services**

Steven Jordan, Director, NC Division of MH/DD/SAS, gave an update on the status of Critical Access Behavioral Health Agencies (CABHA). Mr. Jordan stated that the Division is in the process of transitioning 19,000 individuals from non-CABHA agencies to certified CABHA agencies. Mr. Jordan said that October 31, 2010 was the deadline for applying to be a CABHA to ensure the provider's application would be processed by November 1<sup>st</sup>; the provider could then continue service provision after December 31, 2010 when the current service definition ends. Mr. Jordan added that the Division had 300 applications submitted from August 31<sup>st</sup> and September 1<sup>st</sup>. The Division has processed all with a decision qualifying the provider agency to be a CABHA or not with the exception of 20 applications. Mr. Jordan advised that by October 15<sup>th</sup> the agencies that had not qualified to be a CABHA or did not apply to be a CABHA had to submit a transition plan for their consumers to the Local Management Entities (LMEs). The

LMEs were responsible for reviewing these plans and accepting each plan as appropriate. He stated that the Division processed 900 applications for 600 agencies. There is a duplicate count in the cases; some agencies' attestation letter were inadequate and they were permitted to reapply. Mr. Jordan further stated that the CABHAs are starting to realize that they are no longer a mental health company but they are a medical practice. Mental health is a medically driven service when it is paid for by Medicaid. He added that this was not a perfect process and if a provider is denied certification for CABHA there is a reconsideration appeal. Mr. Jordan informed the Commission that of the eleven reconsiderations that the Division has heard, four have been overturned.

Mr. Jordan stated that over the past 90 days he has appointed two new members to his executive team. Jim Jarrard has been appointed Deputy Director of the DMH/DD/SAS; Dr. Ureh Lekwauwa will serve as medical director. He also provided a brief update on the Medicaid 1915(b)(c) waivers; currently, Piedmont Behavioral Health (PBH) LME is the only LME operating under a Medicaid waiver as a managed care agency for behavioral health. Mr. Jordan stated that legislation, and the Division's goal, is to establish two more waiver sites this year. Mr. Jordan stated that Mecklenburg LME and Western Highlands Network have been selected. Due to some circumstances not related to the waiver, Mecklenburg has asked for a one year extension. Mr. Jordan concluded his report with a snapshot of the budget outlook.

**Mr. Jordan received the following questions and comments from the Commission:**

- Mr. Trobaugh asked if there is a better way to care for the 11,000 people and whether a return to the old method of having state hospitals would cut costs. Mr. Jordan responded that it would not because it takes revenue to sustain what the Division is doing.
- Dr. Jack Haggerty, Commission member, asked to what extent the unfolding of health care reform would affect the community. Mr. Jordan responded that what we are facing is counterintuitive to preparing for health care reform as the Affordability Care Act holds the state to a maintenance of effort. The next piece of health care reform that puts pressure on the Division and mental health services in general is the issue of parity regarding benefits between the public insurance sector and the Medicaid arena.
- Elizabeth Ramos, Commission member, stated that she has read there is only one agency that has been approved as a CABHA in Cumberland County and expressed concern given the size of this County and the number of people served. Mr. Jordan stated that there are approximately four CABHAs in the Cumberland County area.

**Request for Waiver of Rule 10A NCAC 27E .0107**

W. Denise Baker, Team Leader, Division Affairs Team, Operations Support Section, NC Division of MH/DD/SAS, presented the request for waiver for Rule 10A NCAC 27E .0107 – Training on Alternatives to Restrictive Interventions. Ms. Baker stated that the Commission is authorized pursuant to N.C.G.S. §122C-60 to write rules regarding the use of physical restraint or seclusion of a client. Rule 10A NCAC 27E .0107 addresses training and staff competency requirements regarding the use of alternatives to restrictive interventions. The training is intended to be competency based. The Division is proposing that licensed professionals, who possess the necessary skills, be permitted to attest to their competence in the care areas identified in Rule 10A NCAC 27E .0107(g) in lieu of the training required by the rule. Should the licensed professional elect to attest to his or her competency, the attestation must be in the form of a

signed statement that the individual has reviewed the nine competencies in Rule 10A NCAC 27E .0107(g) and is proficient and well-skilled in each of the areas identified. Ms. Baker stated that the Division is also requesting that the waiver be effective as of the date approved by the Commission and remain in effect until the Division rules are amended to reflect this change.

**Ms. Baker received the following questions and comments from the Commission:**

- Dr. Gettelman stated he was confused by exactly what facilities means. Dr. Gettelman stated that it seemed as though the training requirements, as related to licensure, really related to the environment in which the patient is receiving care. Ms. Baker stated that she was not prepared to speak to how this service is utilized in those facilities other than to indicate that there is a set of rules that govern the use of protections regarding the intervention procedures that are outlined in Subchapter 27E relating to the treatment of habilitative rights of patients. Dr. Gettelman also noted that it might be wise to consider the requirement of annual ongoing re-education.
- Mr. Owen offered clarification by stating that the Non-Violent Crisis Intervention (NCI) Training program is provided into two parts: one part is psychological and involves the de-escalation of the incident and the other part is the physical intervention.
- Ms. Jennifer Brobst, Commission member, stated that the attestation letter does not require any documentation and that there is some flexibility within the rule that an agency can propose an alternative curricula if the department approves; however, there nothing other than the attestation of the professional to say that their training is sufficient and nothing really in place to monitor for that. Ms. Baker stated that this rule is part of a series and that other rules within the section actually deal with what the least restrictive alternatives would be, what prohibited procedures actually are, and what the general policies are regarding this process. Ms. Baker clarified by stating that this waiver is not seeking to disregard the other components of this process; rather, the Division is simply asking that in lieu of the training for the licensed professional those individuals be permitted to attest to training in this particular area. Mr. Brobst asked if it would be useful to add to the attestation a requirement to attach documentation, whether it is academic, certification, supervision, or employment; Ms. Baker responded that this could be done.

An initial motion to disapprove the waiver request failed.

***Upon motion, and second, and majority vote, the Commission approved the waiver request for Rule 10A NCAC 27E .0107 – Training on Alternatives to Restrictive Interventions with the stipulation that a copy of the individual’s license and any training certificates received be attached to the attestation.***

**Request for Renewal of Waiver of Rule 10A NCAC 27G .3806**

Lynn Jones, Justice Systems Innovations Team, NC Division of MH/DD/SAS, presented the request for renewal of a waiver of Rule 10A NCAC 27G .3806 – Authorization: Facilities Providing Substance Abuse Services to DWI Offenders.

Ms. Jones stated that pursuant to N.G.C.S. §122C-142.1, the Commission has authority to adopt rules regarding substance abuse services provided to those convicted of driving while impaired or driving under the age of 21 after consuming alcohol or drugs. Ms. Jones stated that, currently, pursuant to Rule 10A NCAC 27G .3806(e), the Division must issue a decision to the facility within 20 business days of receipt of its application. The application is 14 pages in length and

must be accompanied by additional documents to include a procedures manual, samples of clinical documents and other materials sufficient to verify compliance with the DWI Services statute and administrative rules. She stated that the Division is requesting a renewal of the waiver of Rule 10A NCAC 27G .3806 to allow additional time to process and render a decision of each application. In lieu of the 20 business days currently required, the Division asked permission to process and issue a decision regarding each application within 60 days of receipt thereof.

**Ms. Jones received the following questions and comments from the Commission:**

- Mr. Corne asked when the Division expected the Rules for 10A NCAC 27G .3800 to be published in light of the Governor's Executive Order #70. Amanda J. Reeder, Rulemaking Coordinator, NC DMH/DD/SAS, responded that the Division always likes to build in a little bit of time and the Division is hoping to have the rule out as quickly as possible, but with the Executive Order and the fiscal impact/narrative it could take a while.

***Upon motion, second, and unanimous vote, the Commission approved the renewal of the waiver of Rule 10A NCAC 27G .3806 – Authorization: Facilities Providing Substance Abuse Services to DWI Offenders.***

**Rules Committee Report**

Jerry Ratley, Chairman, Rules Committee, stated that due to the lack of business to be heard the October Rules Committee meeting had been canceled and the last meeting was held July, 21, 2010. Chairman Corne announced that he had just received the response from the Department of Correction on the proposed amendment of Rules 10A NCAC Subchapter 26D, which would be relayed to the Rules Committee at a later date. Mr. Ratley addressed the four rules that are recommended for repeal on the agenda.

**Advisory Committee Report**

In Larry Pittman's absence, W. Denise Baker read the Advisory Committee report from the August 26, 2010 meeting. Ms. Baker stated that Mr. Pittman began the meeting by reminding the Advisory Committee of the subcommittee assignments; breakout sessions for the respective priority areas then convened. The priority areas are Community Support Services with an emphasis on CABHA agencies, Workforce Development, and Veterans Access to mental health, developmental disabilities and substance abuse services with a focus on traumatic brain injury.

**Executive Order No. 70 – Rules Modification and Improvement Program**

R. Marcus Lodge, Special Deputy Attorney General, NC Department of Justice, gave the presentation on the Governor's Executive Order No. 70 – Rules Modification and Improvement Program. Mr. Lodge reviewed a handout on the Governor's Executive Order No. 70 and stated that a lot of the order seems to be a matter of emphasis; however, there are some procedural changes that may affect the rulemaking process for the Commission. Mr. Lodge stated that the Executive Order applies to all Cabinet agencies and all boards and commissions with rulemaking powers located within the Cabinet agencies.

**Critical Access Behavioral Health (CABHA) Rules**

Tracy Hayes, Assistant Attorney General, NC Department of Justice, gave a presentation regarding the statutory authority of the NC Division of Medical Assistance (DMA) to promulgate rules for the implementation of the CABHA requirements. Ms. Hayes stated that she represented the DMA and not the DMH/DD/SAS. Ms. Hayes stated that she was before the Commission

speaking on behalf of her client (DMA) and that anything she said should not be considered an official opinion of Attorney General Cooper or the Attorney General's office. Ms. Hayes stated that she was present to explain the authority for the DMA to promulgate the rules regarding CABHA certification.

Ms. Hayes stated that the Medicaid program was created in the Social Security Act and the relevant federal code provisions are found at 42 U.S.C. 1396a. These federal code provisions state that any state that participates in the Medicaid program must have a state plan for medical assistance. The state plan identifies any optional services that the state Medicaid program will cover. The Medicaid programs must cover required services and they may cover optional services. All of the services that are relevant to the CABHA certification process are optional services. Ms. Hayes further stated that federal provision 42 U.S.C. 1396a(a)(19) says that the state plan must provide such safeguards as may be necessary to assure that care and services under the plan will be provided in a manner consistent with simplicity of administration and in the best interest of the recipients. Ms. Hayes stated that at paragraph 22 it says that the state plan must include descriptions of other standards and methods that the state will use to assure that medical or remedial care and services provided to recipients of medical assistance are of high quality. Paragraph 23 says that the state plan must provide that any individual that is eligible for medical assistance may obtain such assistance from any institution, agency, community pharmacy, or person qualified to perform the services required. Ms. Hayes continued by describing federal regulations which implement the Social Security Act, 42 C.F.R. 431.51, which addresses free choice of providers giving Medicaid recipients the right to choose freely among qualified providers. However, the federal regulations specify that nothing in that language is intended to prohibit the state Medicaid agency from setting reasonable standards relating to the qualifications of providers.

Ms. Hayes stated a separate regulation provides that, before a provider can enter into an agreement with the Medicaid agency to provide services and be reimbursed under the state plan, it must meet all applicable federal requirements and "any other requirements imposed by state for participation in the Medicaid program". Ms. Hayes added that the DMA believes it has the authority to implement qualifications for providers who are delivering services and receiving payment under the state Medicaid program for those Medicaid services. Ms. Hayes added that any time the state plans to change a service, eliminate a service, and/or create a new service it must submit a state plan amendment to the federal Centers for Medicare and Medicaid Services for review and approval by the federal government. Once this state plan amendment is approved it becomes the law of the Medicaid program in the state. Ms. Hayes advised that NC has, with respect to CABHA, two state plan amendments and the first was approved on June 29, 2010; this state plan amendment describes the CABHA process, certification, qualifications of provider, and also identifies services that must be delivered by CABHAs. This amendment will take effect on January 1, 2011 and it means that only providers who are certified as CABHAs can deliver certain services (Intensive-In Home, Day Treatment, Community Support Team and Peer Support). In order to implement that state plan requirement DMA drafted temporary rules. The state authority for implementing the temporary rule can be found in Session Law 2009-451.

Ms. Hayes stated that the proposed text of the temporary CABHA rules was transmitted to the Office of Administrative Hearings (OAH) on October 15, 2010. The public comment period ended November 15, 2010 and DMA is currently reviewing all of the comments received and will adopt a temporary rule no earlier than December 1, 2010. Following adoption of the rules, DMA has to prepare a written statement of its finding of need and submit the rule and statement of findings to OAH at which time the Rules Review Commission will either approve or object to the rule.



**Proposed Repeal of 10A NCAC 27B .0600 – Early Childhood Intervention Services for (ECIS) Children with or at Risk for Developmental Delays, Developmental Disabilities or Atypical Development and Their Families**

Amanda J. Reeder, Rulemaking Coordinator, NC Division of MH/DD/SAS, presented the proposed repeal of Rule 10A NCAC 27B .0600 - Early Childhood Intervention Services for (ECIS) Children with or at Risk for Developmental Delays, Developmental Disabilities or Atypical Development and Their Families. Ms. Reeder stated that the Commission promulgated Rules 10A NCAC 27B, Section .0600 in 1984 and that these rules set forth requirements for ECIS for children with or at risk for developmental delays, developmental disability or atypical development and their families. Pursuant to G.S. 130A-126, the Division of Public Health (DPH) is currently responsible for administering this program, and they have promulgated such rules. Therefore, the Commission no longer has rulemaking authority for these centers. These centers are now governed by rules promulgated the DPH; the rules are presented to the Commission for approval for publication.

**Ms. Reeder received the following questions and comments from the Commission:**

- Dr. Richard Brunstetter, Commission member, asked if we new of any existing programs will be affected by repeal of this rule. Ms. Reeder stated that there should not be anyone who is following our rules as opposed to the rules that they legally should be following at DPH.
- Mr. Owen asked why the new authority of the rules fell under DPH and not the Division of Public Instruction. Ms. Reeder stated that the General Statutes specifically gave it to the Commission for Public Health.

*Upon motion, second, and unanimous vote, the Commission approved the proposed repeal and publication of Rules 10A NCAC 27B, Section .0600 - Early Childhood Intervention Services for (ECIS) Children with or at Risk for Developmental Delays, Developmental Disabilities or Atypical Development and Their Families.*

**Proposed Repeal of 10A NCAC 27G .2400 – Developmental Day Services for Children with or at Risk for Developmental Delays, Developmental Disabilities or Atypical Development**

Ms. Reeder gave the presentation on the repeal of 10A NCAC 27G .2400 – Developmental Day Services for Children with or at Risk for Development Delays, Developmental Disabilities or Atypical Development. These rules were promulgated by the Commission in 1996 and Session Law 2009-187 amended the Commission’s authority to give rulemaking for these standards to the Child Care Commission. The Child Care Commission adopted such rules, effective July 1, 2010. The Commission no longer has rulemaking authority for these center and are now governed by rules promulgated by the Child Care Commission; the rules are presented to the Commission for approval for publication.

**Proposed Repeal of 10A NCAC 27G .2500 – Early Childhood Intervention Services (ECIS) for Children with or at Risk for Developmental Delays, Developmental Disabilities or Atypical Development and Their Families**

Ms. Reeder presented the proposed repeal of Rule 10A NCAC 27G .2500- Early Childhood Intervention Services for (ECIS) Children with or at Risk for Developmental Delays, Developmental Disabilities or Atypical Development and Their Families. Ms. Reeder stated that the Commission promulgated Rules 10A NCAC 27G, Section .2500 in 1996 and that these rules set forth requirements for ECIS for children with or at risk for developmental delays, developmental disability or atypical development and their families. Pursuant to G.S. 130A-126, the Division of Public Health (DPH) is currently responsible for administering this program, and

they have promulgated such rules. Therefore, the Commission no longer has rulemaking authority for these centers. These centers are now governed by rules promulgated the DPH; the rules are presented to the Commission for approval for publication.

***Upon motion, second, and unanimous vote, the Commission approved the proposed repeal and publication of Rules 10A NCAC 27G, Section .02400 - Developmental Day Services for Children with or at Risk for Developmental Delays, Developmental Disabilities or Atypical Development and Rules 10A NCAC 27G, Section .2500 - Early Childhood Intervention Services for (ECIS) Children with or at Risk for Developmental Delays, Developmental Disabilities or Atypical Development and Their Families.***

#### **Rule Update**

Ms. Baker provided an update on the status of rules that are currently in process. Ms. Baker began her overview of the *Rulemaking Timeline* handout. Ms. Brobst asked if the list before the Commission was a selective list of what was pending or was it a complete list as she questioned the status of rules associated with House Bill 2077 – Diversion of Substance Abuse Admissions from Hospitals. Ms. Baker indicated that the listing is comprehensive and includes those rules approved in the previous rulemaking plan. Ms. Baker agreed to review the rule referenced as there were two rules with similar focus; it was thought that one was listed in error.

#### **Public Comment Period**

There was no public comment.

**There being no further business, the meeting adjourned at 1:49 pm.**